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EPA Guidance for Irish Water on Requests for Alterations to a Waste Water Discharge Licence or Certificate of Authorisation

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Introduction

This guidance relates to Waste Water Discharge Licences (WWDL) or Certificates of Authorisations (CoA) (hereunder referred to jointly as waste water authorisations) issued to Irish Water.

This guidance is not exhaustive and does not preclude Irish Water from selecting any particular option. This document may be subject to change due to any future amendments in relevant legislation or due to the introduction of relevant new legislation.

It aims to assist Irish Water in managing proposed alterations to a WWDL/CoA.

A proposed alteration is considered to be substantial where it includes any change that would likely change or increase emissions or cause new emissions in a manner which would have consequences for the environment.

Categories of Alterations

This guidance aims to bring about efficiencies in processing requests for alterations. It also seeks to ensure transparency with regard to the legal requirements underpinning decision making, and in so doing enable Irish Water to engage with the EPA in a timely and efficient manner. Currently there are three mechanisms available for regularising an alteration request as follows:

- (i) a letter of agreement (LoA),
- (ii) a clerical/technical amendment (TA/CA), or
- (iii) a review of the WWDL/CoA.

A LoA can only be used to accommodate minor changes under the existing conditions of a WWDL/CoA. In general, alterations which are managed under a letter of agreement or by way of a clerical/technical amendment are regarded as insubstantial. The specific nature of individual requests will be considered by the EPA. Please note that the EPA may, in considering any request for an alteration, take other matters into account and may decide to consider that a review of a WWDL/CoA is necessary even when it appears that the proposed alteration is insubstantial.

This guidance is designed to screen the environmental significance of the proposed alteration and assist Irish Water in understanding and selecting the most appropriate mechanism to deal with their request, thereby reducing the administrative burden and improve efficiencies. Explanatory notes are provided to give some background to the questions posed and to explain how the answers given may influence the outcome.

The WWDL and CoA application forms provide further guidance on the requirements set out below and are key reference documents. The information provided at the time of licensing and as varied by the conditions of the WWDL/CoA is the reference to be used in answering the following questions.

Where Irish Water is unsure whether a request should be accommodated by a LoA, TA/CA or a review of the WWDL/CoA they should consult with their relevant Enforcement Inspector.

The technical amendment provisions contained within the Waste Water Discharge (Authorisation) Regulations (S.I. No 684 of 2007), as amended cannot be relied upon to regularise an on-going breach of a licence condition.

By way of further explanation it may be useful to understand that the questions in the table

have been formulated having regard to the following legal instruments:

1. [Waste Water Discharge \(Authorisation\) Regulations \(S.I. No. 684 of 2007\), as amended.](#)
2. [European Communities \(Birds and Natural Habitats\) Regulations 2011 and 2013.](#)
3. [EIA Regulations 2012 \(S.I. No. 282, 283, 457 of 2012\).](#)

This guidance does not consider the nature and circumstances of technical amendments or reviews initiated by the EPA.

Requesting an Alteration through EDEN

The WWDL/CoA alteration application requires supporting information to be submitted which should be prepared in advance. The documents required may include overview diagrams and completed tables from the WWDL/CoA Application Forms. In addition:

- for a WWDL/CoA Review or Technical Amendment, an appropriate assessment screening report will be required to be submitted;
- in the case where planning permission is required, written confirmation from the applicant as to whether or not there is an open planning application file in relation to the waste water works, or, if planning has been granted, confirmation on whether an EIS is required, must be provided as part of the documentation;
- an alteration that involves a boundary change will require the submission of a new map defining the proposed revised boundary of the agglomeration;
- in the case of a WWDL/CoA review or new application, Irish Water must complete the relevant Application Form available on the EPA website (www.epa.ie) and follow the application process.

Where the request relates to changes to the scope and/or frequency of monitoring any such request should be made under the appropriate *request type* on EDEN and by reference to the specific relevant condition of the WWDL/CoA.

Appendix 1 of this document includes a checklist of information required to support a request for (1) a Letter of Agreement or (2) a WWDL/CoA Amendment (TA/CA).

Screening Questions and Option Selection

	Category	Defining Parameter
1	Review/new WWDL or CoA	
	<p>A positive answer to any of these questions indicates that a WWDL/CoA review or new application is likely to be required</p>	<p><i>Does the proposed alteration:</i></p> <ol style="list-style-type: none"> 1. Cause an alteration or material changes to the Waste Water Works that would, or is likely to, result in an increase in the range or quantities of materials emitted in the discharge, sufficient to cause a breach of emission limits or relevant environmental quality standards? 2. Result in amendments to works listed in the waste water discharge authorisation which, will or is likely to, result in an increase in discharge, sufficient to cause a breach of environmental quality standards and/or postponement of completion dates specified in the WWDL/CoA? 3. Alter the boundary of the agglomeration that would, or is likely to, cause an alteration or material change to the waste water works that would or is likely to result in an increase in discharge, sufficient to cause a breach of emission limits or relevant environmental quality standards? 4. Introduce new primary or secondary discharge point(s)? 5. Introduce discharge point(s) which was/were not identified by Irish Water as part of the authorisation process? 6. Cause an increase in emissions above those specified in <i>Schedule A: Discharges & Discharge Monitoring</i>? 7. Cause a change to the interpretation of ELVs for discharges to water? 8. Cause the re-location of an existing discharge point(s) to a different receiving water or to a new location on the same receiving water where the characteristics of the receiving water are different? 9. Involve development or proposed development to the Waste Water Works that has already been granted planning permission or requires a grant of planning permission and was/is subject to Environmental Impact Assessment (EIA) by the planning authority or An Board Pleanala¹ (ABP) and is likely to, result in an increase in the range or quantities of materials emitted in the discharge sufficient to cause a breach of emission limits or relevant environmental quality standards? 10. Require the preparation of a Natura Impact Statement (NIS) for consideration by any planning/public authority and is likely to, result in an

		<p>increase in the range or quantities of materials emitted in the discharge sufficient to cause a breach of emission limits or relevant environmental quality standards^{2 & 3}?</p> <p>11. Require the Agency to conduct an Appropriate Assessment (AA) (on foot of screening for AA)²?</p> <p>12. Result in an increase in the agglomeration population equivalent (p.e.) thereby resulting in a higher threshold, as prescribed in Schedule 2 of S.I. No. 684 of 2007, applying to the agglomeration?</p>
<p>2</p>	<p>Technical/Clerical Amendment</p>	
	<p>Where the answer is negative to all of the foregoing, a positive answer to one or more of these questions indicates a CA/TA is required.</p>	<p><i>Does the proposed alteration:</i></p> <ul style="list-style-type: none"> • Require a change to a condition or schedule of the WWDL/CoA? • Result in a reduction in the agglomeration population equivalent (p.e.) thereby resulting in a lower Waste Water Discharge Licence threshold, as prescribed in the Schedules of S.I. No. 684 of 2007, applying to the agglomeration? <p><i>As per Regulation 33(1) of Waste Water Discharge (Authorisation) Regulations 2007 as amended the following:</i></p> <ul style="list-style-type: none"> • Correct any clerical error therein (typographical error) (<i>i.e. Clerical amendment</i>)? • Facilitate the operation of the WWDL/CoA and the making of the amendment does not result in the relevant environmental requirements ceasing to be satisfied? • Facilitate the doing of anything pursuant to a condition attached to the WWDL/CoA where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the WWDL/CoA taken as a whole but which was not expressly provided for in the condition, i.e., allows matters in the WWDL/CoA to be clarified to the extent that no greater or lesser obligation is placed on Irish Water than was placed upon Irish Water by the original WWDL/CoA, but the matter at issue is more easily understood (<i>i.e., technical amendment</i>)?
	<p>Examples of changes which <u>may</u> be accommodated by TA</p>	<ul style="list-style-type: none"> • A change to the boundary of an agglomeration which does not cause an alteration or material change to the Waste Water Works that would or is likely to result in an increase in discharge sufficient to cause a breach of emission limits or does not result in a breach in environmental quality standards.

		<ul style="list-style-type: none"> • Renaming of discharge/sampling points. • A reduction of an emission limit to reflect revised legislation. • Updating of guidance/methodologies referenced in WWDL/CoA. • Re-location of discharge points or storm water overflow(s) to the same water body (where the characteristics of the receiving water are similar including the proximity of European Sites). • A new or previously unidentified SWO for which an impact assessment and a screening report for AA have been undertaken and it is determined that Appropriate Assessment is not required.
3	Letter of Agreement (LoA) under specific WWDA/CoA Condition	
	Where the answer is negative to all of the foregoing, a positive answer to this question indicates a LoA is required.	Can the proposed change be accommodated and controlled under the existing WWDL/CoA conditions and limits?
	Examples of changes which <u>may</u> be accommodated by LoA.	<ul style="list-style-type: none"> • Changes to the location, frequency, methods and scope of monitoring, sampling and analysis as specified in <i>Schedule B: Ambient Monitoring</i>. • Replacement or relocation of abatement or monitoring equipment subject to compliance with emission limits. • Proposals for alternative sampling arrangements. • Changes to the monitoring locations, parameters, monitoring frequency and analysis method/technique but excluding changes to <i>Schedule A.4: Interpretation of Discharge Monitoring Results</i>. • Amendments related to <i>Schedule C: Specified Improvement Programme</i> or any additional works notified in writing to the Agency but excludes the removal of any works or postponement of completion dates specified in the WWDL/CoA. • Changes anticipated in the conditions of the WWDL/CoA.

Explanatory Notes

- 1 Proposed alteration(s) that require an EIA by the planning authority/An Bord Pleanala indicates that the alteration is likely to have a significant effect on the environment and therefore the EPA would regard the alteration as being substantial in nature.
- 2 A screening for Appropriate Assessment report must be completed prior to answering this question. Refer to the *Appropriate Assessment of Plans and Projects in Ireland*

– *Guidance for Planning Authorities*, published in 2009 & revised in 2010 by the DECLG, for guidance. An Appropriate Assessment requires *inter alia* public participation and this can only be carried out under the licence review process currently.

3. Proposed alteration(s) that require the preparation of an NIS by the planning or other public authority indicates that the change may require the EPA to conduct an Appropriate Assessment. An Appropriate Assessment requires *inter alia* public participation and this can only be carried out under the licence review process currently. Refer to the *Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities*, published in 2009 & revised in 2010 by the DECLG, for guidance.

Appendix 1 Checklist

Irish Water is required to provide information to support a request for (1) a Letter of Agreement or (2) a WWDL/CoA Amendment (TA), as follows:

1. Letter of Agreement
 - a. Assessment of the proposed changes demonstrating how compliance will be achieved with the existing WWDL/CoA conditions.
2. WWDL/CoA Amendment (TA)
 - a. Screening report for Appropriate Assessment.
 - b. Where planning permission is required, written confirmation from the applicant as to whether or not there is an open planning application file in relation to the waste water works or if planning has been granted confirmation that EIA was not required in this instance.
 - c. Where boundary is being amended, an updated site boundary location map and geo-reference digital drawing files.
 - d. Other documents such as overview diagrams and tables from the WWDA/CoA application form, as appropriate.

Where possible, Irish Water should group all insubstantial amendment requests, relating to an individual WWDL or CoA, into a single TA request, rather than submitting multiple TA requests.